

## ORDINANCE NO. 2024-06

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF AVOCA, IOWA, BY ADDING A NEW SECTION REGARDING AUTOMATED VEHICLE NOISE ENFORCEMENT

**BE IT ENACTED** by the City Council of the City of Avoca, Iowa:

**SECTION 1. NEW SECTION.** The Code of Ordinances of the City of Avoca, Iowa, is amended by adding a new Section 5.7, entitled AUTOMATED VEHICLE NOISE ENFORCMENT, which is hereby adopted to read as follows:

#### **5.7 AUTOMATED VEHICLE NOISE ENFORCEMENT.**

- A. Definitions. The following terms are defined for use in this section:
1. “Automated enforcement contractor” means the company or entity contracted by the City to provide equipment and services in connection with the automated vehicle noise enforcement system.
  2. “Automated traffic citation” means a notice of violation generated in connection with the automated noise enforcement system.
  3. “Automated vehicle noise enforcement system” means an electronic system consisting of an electronic camera and noise detection system to automatically produce digital images and violation data of each vehicle violating designated noise level restrictions.
  4. “Vehicle owner” means the person or entity identified by a state Department of Transportation vehicle registration office as the registered owner of a vehicle. In the event that a state Department of Transportation identifies a person or entity as a lessee of a vehicle the lessee shall be considered the vehicle owner.
- B. Noise Violation. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within designated areas of the City of Avoca, any engine retarding brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, as to exceed 83 dB LAmax, fast. The maximum allowable sound level is based on a sound level measured at, or adjusted to, a distance of fifty feet from the center of the lane in which the motor vehicle is traveling. The regulations shall take into consideration recognized scientific and professional standards for the measurement of vehicular sound levels. Exceptions for noise violations are as follows:
1. The vehicle emitting noise in excess of the limit identified in this chapter is an emergency vehicle operating during an emergency.
- C. Notice, Penalties, and Civil Fines. Upon the determination that the automated vehicle noise enforcement system has detected a violation of this vehicle noise regulation by a police officer the City or their automated enforcement contractor shall cause an Automated Traffic Citation to be mailed to the vehicle owner within 30 days of receipt of ownership information. The citation shall include the following:
1. Name and address of the vehicle owner.

2. Vehicle make, if available and readily discernable.
3. The vehicle registration number.
4. The violation alleged.
5. The time, date and location of the alleged violation.
6. The applicable fine.
7. Information as to the manner in which the Automated Traffic Citation may be challenged.
8. Information that informs the recipient that the basis of the notice is a photograph or video record generated by an automated vehicle noise enforcement system.

D. Fine. The fine for a violation of a vehicle noise violation shall be as outlined in the following table. The fine shall be due and payable, unless contested in accordance with Paragraph F, within 30 days of the date on the Automated Traffic Citation.

Violation	Civil Fine
First Violation	\$100.00
Second and Subsequent Violations	\$200.00

E. Exemptions From an Automatic Traffic Enforcement System Violation. The following shall be exempted from an automatic traffic enforcement system violation:

1. The operator or vehicle owner of a vehicle when that owner or operator was issued a uniform traffic citation for a noise violation under Chapter 321 of the *Code of Iowa*.
2. The violation occurred during a time when the vehicle in question or its state registration plates were reported to a law enforcement agency as having been stolen. Provided; however, that the vehicle plates have not been recovered by the vehicle owner at the time of the alleged violation.

F. Challenging An Automated Traffic Enforcement System Violation.

1. The vehicle owner may submit a written challenge for an automated traffic enforcement system violation within 30 days of the date of appearing at the top of the Automated Traffic Citation sent to the registered owner. A written challenge shall request that the violation be submitted as a municipal infraction under Section 4.1 of this Code. The City shall provide a form for filing a written challenge of the Automated Traffic Citation.
2. A challenge of the Automated Traffic Citation shall be sent to the County Sub-County Court which shall determine within 30 days of receipt, if the citation shall be rescinded. If the violation is upheld the City may seek voluntary payment or file the citation as a Municipal Infraction.

G. Failure to Pay. If the vehicle owner fails to pay the Automated Traffic Citation within 30 days of the date of appearing at the top of the Automated Traffic Citation or challenge the citation the City may file the citation as a municipal infraction against the vehicle owner. The City reserves the right to seek resolution of the citation in any other manner available to the City including the use of the State's Income Offset Program.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 20th day of February, 2024, and approved this 20<sup>th</sup> day of February, 2024.

  
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Tom Bruck, Mayor

ATTEST:

  
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Teresa M Hoepner, City Clerk

First Reading: February 20, 2024

Second Reading: Waived

Third Reading: Waived

I certify that the foregoing was published as Ordinance No. 2024-06 on the 27th day of February 2024.

  
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Teresa M Hoepner, City Clerk